IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

WP(C).No. 20886 of 2007(J)

PETITIONER:

SUDAKSHNA THAMPI, AGED 22 YEARS,
D/O.NARAYAN THAMPI, G-353, PANAMPILLY NAGAR,
KOCHI-682016.

BY ADV. SRI.BEPIN VIJAYAN

RESPONDENTS:

---

1. STATE OF KERALA REPRESENTED BY ITS SECRETARY TO THE DEPARTMENT OF REVENUE, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, KOLLAM DISTRICT, COLLECTORATE, KOLLAM.

3. THE TAHSILDAR (RR), REVENUE RECOVERY OFFICE, KOLLAM TALUK, KOLLAM DISTRICT-691001.

4. THESUPERINTENDENT OF SURVEY AND LAND RECORDS, KOLLAM DISTRICT, CLLECTORATE, KOLLAM.

BY GOVT.PLEADER SRI.C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J

W.P.(C) NO. 20886 of 2007

Dated this the 6th day of July, 2007

JUDGMENT

The petitioner challenges Ext.P4 notice whereunder the Tahsildar has notified an item of property for sale for recovery of arrears of sales tax amounting to Rs.22,29,775/=. According to the petitioner, the property belongs to her vide Ext.P1 and the petitioner is not an assessee of sales tax. However, it is seen that the document was executed in the year 1988 when the petitioner was a three year old child. It is not known whether transferor was a defaulter making the property liable for recovery proceedings or whether transfer was effected to petitioner after incurring liability. If transfer was effected to defraud revenue, the transaction become void by virtue of Section 53 of the Transfer of Property Act and Section 44 of the Revenue Recovery Act. Since a detailed enquiry is called for to decide the petitioner's claim and Sections 29 and 46 of the Revenue

Recovery Act provide for settlement of claim, the writ petition is disposed of directing the third respondent to conduct an enquiry about the defaulters and their assets and verify whether the transfer of property claimed by the petitioner was made against Section 53 of the Transfer of Property Act or section 44 of the Revenue Recovery Act. The third respondent will adjudicate the petitioner's claim after hearing the petitioner at the earliest and in case before confirmation of sale of the property. The petitioner shall produce a copy of this judgment and a copy of the title deed before the third respondent for compliance.

The writ petition is disposed of as above.

C.N.RAMACHANDRAN NAIR,
JUDGE

CSS